



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the Application of:

Hendricus W. J. VAN TOL et al

Serial No.: 09/914,793

Filed: December 18, 2001

For: Holder for Plant Cuttings

Attorney Reference 000771.00025

Examiner: Valenti, Andrea M

Group Art Unit: 3643

APPEAL BRIEF

Commissioner of Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. § 1.192, Appellants submit their Appeal Brief, in triplicate, to the Board of Appeals and Interferences from the Final Rejection of the Examiner mailed on October 7, 2003.

REAL PARTY IN INTEREST

The real party in interest is Visser 's-Gravendeel Holding, B.V. the assignee of the present application.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

02/11/2004 AWONDAF1 00000019 190733 09914793
01 FC:1402 330.00 DA

STATUS OF CLAIMS

Claims 1 and 3-26 are pending. Claims 18-20 are considered allowable over the prior art.

STATUS OF AMENDMENTS

No response was filed after final rejection.

SUMMARY OF THE INVENTION

The present invention is directed to a holder for plant cuttings. The holder comprises at least one carrier and a series of clamping elements which are fixed to the carrier and which are each adapted to clamp a plant cutting. The clamping elements are fixed to the carrier such that plant cuttings clamped in the clamping elements extend substantially parallel to each other, and the center of each of the clamping elements is situated substantially in the same central plane and the central plane extends at a right angle to the plant cuttings. The holder transports whole plant cuttings placed in the holder.

The holder of the instant claims allows transport and processing of plant cuttings without damage to the cuttings. Each plant cutting is placed in its own clamp and the plant cuttings are held parallel to each other. The holder transports whole plant cuttings. Nothing else is required to transport the plants. That is, the plant cuttings are not embedded or supported in soil or other media.

ISSUES

The issues presented to the Board for review by this appeal are:

Whether claims 1, 3-5, 7-9, and 25-26 are properly rejected as being anticipated by Miller.

Whether claims 25-26 are properly rejected as obvious over Miller.

Whether claims 1, 3-5, 7-12, 14, and 21-24 are properly rejected as obvious over Tai.

Whether claims 6 and 13 are properly rejected as obvious over Tai in view of Nasuno and Court.

GROUPING OF CLAIMS

Claims 18-20 stand separately as allowable over the prior art.

ARGUMENT

Miller is directed to a plant support means for plants *planted in the ground*, such as vines in a vineyard, tomatoes, or cucumbers. Miller's device requires end posts (8) having a series of screws (9) designed to support end brackets (10) of bar (11) at different levels. The end posts are stuck into, and supported by, the ground and, as the plants grow, bar (11) is adjusted upward with the plants. A cord (20A) is wedged in a slot (12) on bar (11), extends around a plant stem (6), and is then wedged in another slot (12).

Miller's device is meant to support growing plants. As the plants grow, the bar (11) containing the slots (12) is moved upward to maintain support at the upper portion of the plant. Miller's device supports only an *upper portion* of a plant. The ground supports the bottom portion of the plant. Miller's device is not intended to hold plant cuttings when transported. If the plant is removed from the ground or is cut, the plant will not be supported in a manner to be transported safely.

When Miller is used as directed, Miller holds the plants *in the ground* in a parallel manner since stalk plants tend to grow vertically. In contrast, the claimed invention requires that "*plant cuttings* clamped in the clamping elements *extend substantially parallel to each other*." Should one try to use Miller's device with plant *cuttings* (which have no support in the ground), the plant cuttings would lean or fall over, twist, get tangled with each other, etc. That is, in Miller, cuttings held in place by the cord or rope in accordance with Miller could not *extend substantially parallel to each other* as required by the instant claims. The instant claims require a holder that holds the whole plant cutting, not just support a portion of it.

In order to hold the plant cutting without damaging the cutting, the instant claims utilize a series of clamps, each clamp holding a single cutting. The cord or rope used in Miller is not a clamp in accordance the claimed invention. As shown in figure 3, the cord in Miller is loosely applied around a plant to allow the plant to grow. Should the cord be strung tightly around the plant, it would likely strangle the plant. Thus, the plants are secured to the plant supporting

means, but secured in order to prevent the plant from falling over, not for carrying the plant around. Miller simply does not teach or suggest a clamp in accordance with the instant claims.

The Office Action considers that a plant could be in a vase or in a pot, and thus the device of Miller could be used for transport. First, the present invention is not directed to transporting plants planted in a pot or held in a vase. It is directed to transporting plant cuttings. Moreover, it is not clear how the plant supporting means of Miller would function with plant cuttings in a vase or in pots or as a carrier. The end posts (8) need to be driven into soil. It is also unclear how the entire structure (holder, plant, and pots) could be easily transported.

Miller does not teach each and every element as required under 35 USC 102 and cannot anticipate the claims. Reversal of the 102 rejection over Miller is requested.

Moreover, claims 25 and 26 require that the carrier is manufactured from flat material in which at least three lips are punched at the position of each clamping element, which lips are adapted to fixedly clamp the plant cuttings. Miller does not teach or suggest a carrier manufactured from flat material in which at least three lips are punched at the position of each clamping element. Miller teaches a cord or rope. Miller provides no teaching or suggestion to one skilled in the art to replace the cord or rope with a flat material having three lips adapted to fixedly clamp the plant. Reversal of the 103(a) rejection over Miller is requested.

Tai is directed to a clip for clipping the stem of a potted plant to a stick. A stick is held in side wing (15) and the plant is held between arcuate plates (10). Tai offers support only in the horizontal direction, there is no need to provide support in the vertical direction. The stick is placed in the ground or soil in a pot, and serves only as a support for part of the plant. The ground or soil in a pot provides support for the remaining part of the plant.

More than one clip may be used to support the same plant stem as shown in Fig. 4, but the clips and stick arrangement is intended for a single plant, not a series of plants. The clips and stick arrangement cannot be used to hold more than one plant substantially parallel to each other.

Tai is not directed to a holder to transport plant cuttings. Although Tai's clamp and stick may be used to support a plant during *transport of the pot*, it cannot be used to transport a series of plant *cuttings* in a manner as the instant claims. Tai is simply not designed as a holder to transport plant *cuttings*, which have no support in the ground or soil. As stated above, Tai

supports the plant in a horizontal direction. In order to arrive at the claimed invention, the clamps would need to be rotated on the stick to hold the plants perpendicular to the stick. There is simply no reason that one skilled in the art would have rotated the clamps because it would have defeated the purpose of the Tai device – to support plants in pots. Tai does not teach or suggest the instant claims. Moreover, there is no reason to modify Tai because such a modification would defeat the purpose of the holder of Tai. Reversal of the rejection over Tai is requested.

Nasuno likewise is directed to a clip for clipping the stem of a plant for support in the horizontal direction. Because the bottom of the plant is on soil, as in Tai, there is no need to provide support in the vertical direction. The clamp in Nasuno is attached to a wire. It is readily apparent that the arrangement in Nasuno is not suitable for transporting plant clippings. Thus, even if one skilled in the art would have modified Tai in view of Nasuno, one skilled in the art would not have arrived at the instant claims directed to a holder suitable for transporting plant clippings in a parallel manner as required by the instant claims.

Court discloses a reinforcing unit for slack plant stems, especially when flowers are heavy. That is, Court supports the head of a cut flower to prevent drooping. A single unit is attached to a single flower. Thus each flower in Court would have its own support and the flowers may be used collectively in a vase, for example. Court is not directed to a holder having a series of clamps to transport several plant cuttings at one time. A florist would not want a holder having a series of clamps in accordance with the instant claims as such holder would not be suitable for flower arrangements. The holder of the instant claims is designed for safely transporting plant clippings.

The unit in Court supports an individual blossom head of cut flowers whereas Tai supports a single plant in soil. Even if one skilled in the art modified Tai in view of Court, one skilled in the art may have used the unit of Court to support a flower head in Tai. Court does not lead one skilled in the art to a holder containing a series of clamps to transport several plant clippings at one time.

Neither Nasuno nor Court remedies the defects of Tai. Reversal of the rejection over Tai in view of Nasuno and Court is requested.

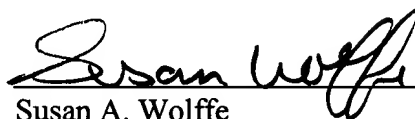
Summary

In view of the arguments presented herein, reversal of the rejection is requested.

Respectfully submitted,

Dated: February 9, 2004

By:

A handwritten signature in black ink, appearing to read "Susan Wolffe", written over a horizontal line.

Susan A. Wolffe
Reg. No. 33,568

BANNER & WITCOFF, LTD.

1001 G Street, N.W.

Washington, D.C. 20001-4597

(202)-508-9100

Appendix: Claims involved in the Appeal

APPENDIX

1. Holder for transporting plant cuttings, comprising at least one carrier and a series of clamping elements which are fixed to the carrier and which are each adapted to clamp a plant cutting, wherein the clamping elements are fixed to the carrier such that plant cuttings clamped in the clamping elements extend substantially parallel to each other, and the center of each of the clamping elements is situated substantially in the same central plane, wherein the central plane extends at a right angle to the plant cuttings, wherein the holder transports whole plant cuttings placed in the holder.
3. Holder as claimed in claim 1, characterized in that the carrier extends as a strip and that the clamping elements are fixed to the carrier at regular mutual distances.
4. Holder as claimed in claim 1, characterized in that the clamping elements are each fixed on the same side of the carrier.
5. Holder as claimed in claim 1, characterized in that the mutual distance between the clamping elements on one side of the carrier is greater than or equal to the mutual distance between the center of the clamping elements so that two carriers with their clamping elements can be placed between each other.
6. Holder as claimed in claim 1, characterized in that the carrier is substantially flexible.
7. Holder as claimed in claim 1, characterized in that the carrier is divided into substantially rigid pieces which are coupled in mutually flexible manner.
8. Holder as claimed in claim 1, characterized in that the carrier has been made substantially from rigid material.
9. Holder as claimed in claim 8, characterized in that the clamping elements have been

made from softer material than the carrier.

10. Holder as claimed in claim 9, characterized in that the clamping elements have been made in the carrier by injection moulding and that they are connected with the carrier.

11. Holder as claimed in claim 1, characterized in that the clamping elements each comprise at least two parts, at least one of which is connected resiliently to the carrier.

12. Holder as claimed in claim 11, characterized in that the parts each take substantially the form of a semi-cylindrical surface, wherein both parts are connected to the carrier such that in the non-loaded situation both parts are separated on either side by a narrow gap.

13. Holder as claimed in claim 11, characterized in that the inner walls of both parts of the clamping elements have an upward diverging form on one side.

14. Holder as claimed in claim 11, characterized in that the inner wall of both parts of the clamping elements together have a substantially oval section.

15. Holder as claimed in claim 12, characterized in that each of the parts is connected to the carrier by at least two bridges.

16. Holder as claimed in claim 15, characterized in that each of the parts is connected to the carrier by a single bridge element, and that each bridge element extends over a substantial part of the length of the parts of the clamping element.

17. Holder as claimed in claim 16, characterized in that both parts of the clamping element are mutually connected by a thin strip of material.

18. Holder as claimed in claim 15, characterized in that the carrier comprises elements which extend parallel to the axis of the clamping elements and which are connected by means of a

narrowed portion to parts of the carrier extending substantially in lengthwise direction of the carrier.

19. Holder as claimed in claim 18, characterized in that the carrier comprises two rods extending in lengthwise direction to which the elements are fixed.

20. Holder as claimed in claim 19, characterized in that the clamping elements extend partially between the rods.

21. Holder as claimed in claim 11, characterized in that each of the parts of the clamping elements are connected to the carrier for tilting on an axis extending substantially at a right angle to the plane of the carrier.

22. Holder as claimed in claim 21, characterized in that each of the parts of the clamping elements are connected to the carrier by means of a connection subject to torsion.

23. Holder as claimed in claim 22, characterized in that the parts of the clamping elements each comprise a plate which comprises a clamping surface on one side of the connection to the carrier and are provided on the other side with engaging surfaces for moving apart the clamping surfaces in the manner of a lever.

24. Holder as claimed in claim 9, characterized in that the holder is manufactured by injection moulding or thermoforming of plastic.

25. Holder as claimed in claim 1, characterized in that the carrier is manufactured from flat material in which at least three lips are punched at the position of each clamping element, which lips are adapted to fixedly clamp the plant cuttings.

26. Holder as claimed in claim 25, characterized in that the holder is manufactured from paper or from plastic foil.

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 330

Complete if Known

Application Number 09/914,793
Filing Date December 18, 2001
First Named Inventor Hendricus W. J. VAN TOL et al.
Examiner Name Andrea M. Valenti
Art Unit 3643
Attorney Docket No. 000771.00025

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None
Order

☒ Deposit Account:

Deposit
Account
Number

19-0733

Deposit
Account
Name

Banner & Witcoff, LTD.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments
☐ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee
to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$ 0

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
22 **	0	0	0
Independent Claims	4 **	0	0
Multiple Dependent		0	0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$ 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	330.00
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

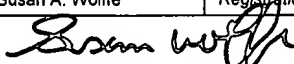
*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 330

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Susan A. Wolfe	Registration No. Attorney/Agent)	33,568	Telephone	202-824-3000
Signature		Date	2-9-4		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

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STATUS OF AMENDMENTS

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SUMMARY OF THE INVENTION

The present invention is directed to a holder for plant cuttings. The holder comprises at least one carrier and a series of clamping elements which are fixed to the carrier and which are each adapted to clamp a plant cutting. The clamping elements are fixed to the carrier such that plant cuttings clamped in the clamping elements extend substantially parallel to each other, and the center of each of the clamping elements is situated substantially in the same central plane and the central plane extends at a right angle to the plant cuttings. The holder transports whole plant cuttings placed in the holder.

The holder of the instant claims allows transport and processing of plant cuttings without damage to the cuttings. Each plant cutting is placed in its own clamp and the plant cuttings are held parallel to each other. The holder transports whole plant cuttings. Nothing else is required to transport the plants. That is, the plant cuttings are not embedded or supported in soil or other media.

ISSUES

The issues presented to the Board for review by this appeal are:

Whether claims 1, 3-5, 7-9, and 25-26 are properly rejected as being anticipated by Miller.

Whether claims 25-26 are properly rejected as obvious over Miller.

Whether claims 1, 3-5, 7-12, 14, and 21-24 are properly rejected as obvious over Tai.

Whether claims 6 and 13 are properly rejected as obvious over Tai in view of Nasuno and Court.

GROUPING OF CLAIMS

Claims 18-20 stand separately as allowable over the prior art.

ARGUMENT

Miller is directed to a plant support means for plants *planted in the ground*, such as vines in a vineyard, tomatoes, or cucumbers. Miller's device requires end posts (8) having a series of screws (9) designed to support end brackets (10) of bar (11) at different levels. The end posts are stuck into, and supported by, the ground and, as the plants grow, bar (11) is adjusted upward with the plants. A cord (20A) is wedged in a slot (12) on bar (11), extends around a plant stem (6), and is then wedged in another slot (12).

Miller's device is meant to support growing plants. As the plants grow, the bar (11) containing the slots (12) is moved upward to maintain support at the upper portion of the plant. Miller's device supports only an *upper portion* of a plant. The ground supports the bottom portion of the plant. Miller's device is not intended to hold plant cuttings when transported. If the plant is removed from the ground or is cut, the plant will not be supported in a manner to be transported safely.

When Miller is used as directed, Miller holds the plants *in the ground* in a parallel manner since stalk plants tend to grow vertically. In contrast, the claimed invention requires that "*plant cuttings* clamped in the clamping elements *extend substantially parallel to each other*." Should one try to use Miller's device with plant *cuttings* (which have no support in the ground), the plant cuttings would lean or fall over, twist, get tangled with each other, etc. That is, in Miller, cuttings held in place by the cord or rope in accordance with Miller could not *extend substantially parallel to each other* as required by the instant claims. The instant claims require a holder that holds the whole plant cutting, not just support a portion of it.

In order to hold the plant cutting without damaging the cutting, the instant claims utilize a series of clamps, each clamp holding a single cutting. The cord or rope used in Miller is not a clamp in accordance the claimed invention. As shown in figure 3, the cord in Miller is loosely applied around a plant to allow the plant to grow. Should the cord be strung tightly around the plant, it would likely strangle the plant. Thus, the plants are secured to the plant supporting

means, but secured in order to prevent the plant from falling over, not for carrying the plant around. Miller simply does not teach or suggest a clamp in accordance with the instant claims.

The Office Action considers that a plant could be in a vase or in a pot, and thus the device of Miller could be used for transport. First, the present invention is not directed to transporting plants planted in a pot or held in a vase. It is directed to transporting plant cuttings. Moreover, it is not clear how the plant supporting means of Miller would function with plant cuttings in a vase or in pots or as a carrier. The end posts (8) need to be driven into soil. It is also unclear how the entire structure (holder, plant, and pots) could be easily transported.

Miller does not teach each and every element as required under 35 USC 102 and cannot anticipate the claims. Reversal of the 102 rejection over Miller is requested.

Moreover, claims 25 and 26 require that the carrier is manufactured from flat material in which at least three lips are punched at the position of each clamping element, which lips are adapted to fixedly clamp the plant cuttings. Miller does not teach or suggest a carrier manufactured from flat material in which at least three lips are punched at the position of each clamping element. Miller teaches a cord or rope. Miller provides no teaching or suggestion to one skilled in the art to replace the cord or rope with a flat material having three lips adapted to fixedly clamp the plant. Reversal of the 103(a) rejection over Miller is requested.

Tai is directed to a clip for clipping the stem of a potted plant to a stick. A stick is held in side wing (15) and the plant is held between arcuate plates (10). Tai offers support only in the horizontal direction, there is no need to provide support in the vertical direction. The stick is placed in the ground or soil in a pot, and serves only as a support for part of the plant. The ground or soil in a pot provides support for the remaining part of the plant.

More than one clip may be used to support the same plant stem as shown in Fig. 4, but the clips and stick arrangement is intended for a single plant, not a series of plants. The clips and stick arrangement cannot be used to hold more than one plant substantially parallel to each other.

Tai is not directed to a holder to transport plant cuttings. Although Tai's clamp and stick may be used to support a plant during *transport of the pot*, it cannot be used to transport a series of plant *cuttings* in a manner as the instant claims. Tai is simply not designed as a holder to transport plant *cuttings*, which have no support in the ground or soil. As stated above, Tai

supports the plant in a horizontal direction. In order to arrive at the claimed invention, the clamps would need to be rotated on the stick to hold the plants perpendicular to the stick. There is simply no reason that one skilled in the art would have rotated the clamps because it would have defeated the purpose of the Tai device – to support plants in pots. Tai does not teach or suggest the instant claims. Moreover, there is no reason to modify Tai because such a modification would defeat the purpose of the holder of Tai. Reversal of the rejection over Tai is requested.

Nasuno likewise is directed to a clip for clipping the stem of a plant for support in the horizontal direction. Because the bottom of the plant is on soil, as in Tai, there is no need to provide support in the vertical direction. The clamp in Nasuno is attached to a wire. It is readily apparent that the arrangement in Nasuno is not suitable for transporting plant clippings. Thus, even if one skilled in the art would have modified Tai in view of Nasuno, one skilled in the art would not have arrived at the instant claims directed to a holder suitable for transporting plant clippings in a parallel manner as required by the instant claims.

Court discloses a reinforcing unit for slack plant stems, especially when flowers are heavy. That is, Court supports the head of a cut flower to prevent drooping. A single unit is attached to a single flower. Thus each flower in Court would have its own support and the flowers may be used collectively in a vase, for example. Court is not directed to a holder having a series of clamps to transport several plant cuttings at one time. A florist would not want a holder having a series of clamps in accordance with the instant claims as such holder would not be suitable for flower arrangements. The holder of the instant claims is designed for safely transporting plant clippings.

The unit in Court supports an individual blossom head of cut flowers whereas Tai supports a single plant in soil. Even if one skilled in the art modified Tai in view of Court, one skilled in the art may have used the unit of Court to support a flower head in Tai. Court does not lead one skilled in the art to a holder containing a series of clamps to transport several plant clippings at one time.

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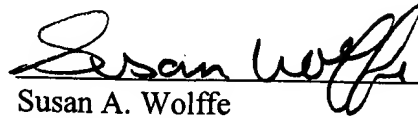
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Respectfully submitted,

Dated: February 9, 2004

By:

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Susan A. Wolfe
Reg. No. 33,568

BANNER & WITCOFF, LTD.
1001 G Street, N.W.
Washington, D.C. 20001-4597
(202)-508-9100
Appendix: Claims involved in the Appeal

APPENDIX

1. Holder for transporting plant cuttings, comprising at least one carrier and a series of clamping elements which are fixed to the carrier and which are each adapted to clamp a plant cutting, wherein the clamping elements are fixed to the carrier such that plant cuttings clamped in the clamping elements extend substantially parallel to each other, and the center of each of the clamping elements is situated substantially in the same central plane, wherein the central plane extends at a right angle to the plant cuttings, wherein the holder transports whole plant cuttings placed in the holder.
3. Holder as claimed in claim 1, characterized in that the carrier extends as a strip and that the clamping elements are fixed to the carrier at regular mutual distances.
4. Holder as claimed in claim 1, characterized in that the clamping elements are each fixed on the same side of the carrier.
5. Holder as claimed in claim 1, characterized in that the mutual distance between the clamping elements on one side of the carrier is greater than or equal to the mutual distance between the center of the clamping elements so that two carriers with their clamping elements can be placed between each other.
6. Holder as claimed in claim 1, characterized in that the carrier is substantially flexible.
7. Holder as claimed in claim 1, characterized in that the carrier is divided into substantially rigid pieces which are coupled in mutually flexible manner.
8. Holder as claimed in claim 1, characterized in that the carrier has been made substantially from rigid material.
9. Holder as claimed in claim 8, characterized in that the clamping elements have been

made from softer material than the carrier.

10. Holder as claimed in claim 9, characterized in that the clamping elements have been made in the carrier by injection moulding and that they are connected with the carrier.
11. Holder as claimed in claim 1, characterized in that the clamping elements each comprise at least two parts, at least one of which is connected resiliently to the carrier.
12. Holder as claimed in claim 11, characterized in that the parts each take substantially the form of a semi-cylindrical surface, wherein both parts are connected to the carrier such that in the non-loaded situation both parts are separated on either side by a narrow gap.
13. Holder as claimed in claim 11, characterized in that the inner walls of both parts of the clamping elements have an upward diverging form on one side.
14. Holder as claimed in claim 11, characterized in that the inner wall of both parts of the clamping elements together have a substantially oval section.
15. Holder as claimed in claim 12, characterized in that each of the parts is connected to the carrier by at least two bridges.
16. Holder as claimed in claim 15, characterized in that each of the parts is connected to the carrier by a single bridge element, and that each bridge element extends over a substantial part of the length of the parts of the clamping element.
17. Holder as claimed in claim 16, characterized in that both parts of the clamping element are mutually connected by a thin strip of material.
18. Holder as claimed in claim 15, characterized in that the carrier comprises elements which extend parallel to the axis of the clamping elements and which are connected by means of a

narrowed portion to parts of the carrier extending substantially in lengthwise direction of the carrier.

19. Holder as claimed in claim 18, characterized in that the carrier comprises two rods extending in lengthwise direction to which the elements are fixed.

20. Holder as claimed in claim 19, characterized in that the clamping elements extend partially between the rods.

21. Holder as claimed in claim 11, characterized in that each of the parts of the clamping elements are connected to the carrier for tilting on an axis extending substantially at a right angle to the plane of the carrier.

22. Holder as claimed in claim 21, characterized in that each of the parts of the clamping elements are connected to the carrier by means of a connection subject to torsion.

23. Holder as claimed in claim 22, characterized in that the parts of the clamping elements each comprise a plate which comprises a clamping surface on one side of the connection to the carrier and are provided on the other side with engaging surfaces for moving apart the clamping surfaces in the manner of a lever.

24. Holder as claimed in claim 9, characterized in that the holder is manufactured by injection moulding or thermoforming of plastic.

25. Holder as claimed in claim 1, characterized in that the carrier is manufactured from flat material in which at least three lips are punched at the position of each clamping element, which lips are adapted to fixedly clamp the plant cuttings.

26. Holder as claimed in claim 25, characterized in that the holder is manufactured from paper or from plastic foil.